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8 **BEFORE THE**  
9 **BOARD OF REGISTERED NURSING**  
10 **DEPARTMENT OF CONSUMER AFFAIRS**  
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

Case No. 2013-870

13 **ROBERT WILLIAM KWASINSKI, JR.**

14 66 McKay Street  
Hickory Flat, MS 38633

**A C C U S A T I O N**

15 Registered Nurse License No. 638354

16 Respondent.

17 Complainant alleges:

18 **PARTIES**

19 1. Louise R. Bailey, M.Ed., RN ("Complainant") brings this Accusation solely in her  
20 official capacity as the Executive Officer of the Board of Registered Nursing, Department of  
21 Consumer Affairs.

22 2. On or about June 9, 2004, the Board of Registered Nursing issued Registered Nurse  
23 License Number 638354 to Robert William Kwasinski, Jr. ("Respondent"). The Registered  
24 Nurse License was in full force and effect at all times relevant to the charges herein, expired on  
25 November 30, 2011, and has not been renewed.

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1                                    **JURISDICTION AND STATUTORY PROVISIONS**

2            3.     This Accusation is brought before the Board of Registered Nursing ("Board"),  
3     Department of Consumer Affairs, under the authority of the following laws. All section  
4     references are to the Business and Professions Code ("Code") unless otherwise indicated.

5            4.     Section 2750 of the Code provides, in pertinent part, that the Board may discipline  
6     any licensee, including a licensee holding a temporary or an inactive license, for any reason  
7     provided in Article 3 (commencing with section 2750) of the Nursing Practice Act.

8            5.     Section 118, subdivision (b), of the Code provides that the suspension, expiration,  
9     surrender or cancellation of a license shall not deprive the Board of jurisdiction to proceed with a  
10    disciplinary action during the period within which the license may be renewed, restored, reissued  
11    or reinstated.

12          6.     Section 2764 of the Code provides, in pertinent part, that the expiration of a license  
13    shall not deprive the Board of jurisdiction to proceed with a disciplinary proceeding against the  
14    licensee or to render a decision imposing discipline on the license. Section 2811(b) of the Code  
15    provides, in pertinent part, that the Board may renew an expired license at any time within eight  
16    years after the expiration.

17          7.     California Code of Regulations, title 16, section 1419.3 provides:

18                    "In the event a licensee does not renew his/her license as provided in  
19                    Section 2811 of the code, the license expires. A licensee renewing pursuant to this  
20                    section shall furnish a full set of fingerprints as required by and set out in section  
21                    1419(b) as a condition of renewal.

22                    (a) A licensee may renew a license that has not been expired for more  
23                    than eight years by paying the renewal and penalty fees as specified in Section 1417  
24                    and providing evidence of 30 hours of continuing education taken within the prior  
25                    two-year period.

26                    (b) A licensee may renew a license that has been expired for more than  
27                    eight years by paying the renewal and penalty fees specified in Section 1417 and  
28                    providing evidence that he or she holds a current valid active and clear registered  
29                    nurse license in another state, a United States territory, or Canada, or by passing the  
30                    Board's current examination for licensure."

31          8.     Section 2761 of the Code states in pertinent part:

32                    "The board may take disciplinary action against a certified or licensed  
33                    nurse or deny an application for a certificate or license for any of the following:

1 following: (a) Unprofessional conduct, which includes, but is not limited to, the

2 ...

3 (4) Denial of licensure, revocation, suspension, restriction, or any other  
4 disciplinary action against a health care professional license or certificate by another  
5 state or territory of the United States, by any other government agency, or by another  
6 California health care professional licensing board. A certified copy of the decision  
7 or judgment shall be conclusive evidence of that action.

8 ...

9 (d) Violating or attempting to violate, directly or indirectly, or assisting  
10 in or abetting the violating of, or conspiring to violate any provision or term of this  
11 chapter [the Nursing Practice Act] or regulations adopted pursuant to it."

12 9. Section 2762 of the Code states:

13 "In addition to other acts constituting unprofessional conduct within the  
14 meaning of this chapter [the Nursing Practice Act], it is unprofessional conduct for a  
15 person licensed under this chapter to do any of the following:

16 ...

17 (e) Falsify, or make grossly incorrect, grossly inconsistent, or  
18 unintelligible entries in any hospital, patient, or other record pertaining to the  
19 substances described in subdivision (a) of this section."

## 20 DRUG DEFINITIONS

21 10. Meperidine (Demerol) is a narcotic analgesic, a dangerous drug as defined in section  
22 4022, a Schedule II controlled substance and narcotic as defined by Health and Safety Code  
23 section 11055.

## 24 COST RECOVERY

25 11. Section 125.3 of the Code provides, in pertinent part, that the Board may request the  
26 administrative law judge to direct a licentiate found to have committed a violation or violations of  
27 the licensing act to pay a sum not to exceed the reasonable costs of the investigation and  
28 enforcement of the case, with failure of the licentiate to comply subjecting the license to not being  
renewed or reinstated. If a case settles, recovery of investigation and enforcement costs may be  
included in a stipulated settlement.

## 29 FIRST CAUSE FOR DISCIPLINE

### 30 (Disciplinary Action by Mississippi Board of Nursing)

31 12. Respondent is subject to disciplinary action under section 2761, subdivision (a)(4) of

1 the Code in that Respondent was disciplined by the Mississippi Board of Nursing ("Mississippi  
2 Board"), as follows:

3 13. On or about April 11, 2007, the Mississippi Board approved and adopted an Agreed  
4 Order in the disciplinary matter entitled *In the Matter of Mississippi License No. R-666246, which*  
5 *lapsed on or about 12/31/2006, issued to Robert Kwasinski*, requiring Respondent to comply with  
6 terms and conditions for a minimum of twenty-four (24) months. The circumstances underlying  
7 the disciplinary action by the Mississippi Board are, as follows:

8 14. While working at Haywood Park community Hospital ("Haywood Park") in  
9 Brownsville, Tennessee, Respondent falsified or in a repeatedly negligent manner made incorrect  
10 entries or failed to make essential entries on records. Specifically, Respondent withdrew  
11 Meperidine (Demerol) on numerous occasions from June 25, 2006, through July 19, 2006. A  
12 facility review and comparison of the Pyxis<sup>1</sup> computer sign outs for Respondent and patient  
13 medical records revealed fifteen (15) entries in which there were inconsistencies (either incorrect  
14 entries or a failure to make essential entries).<sup>2</sup>

15 **SECOND CAUSE FOR DISCIPLINE**

16 **(Unprofessional Conduct)**

17 15. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
18 Code on the grounds of unprofessional conduct in that Respondent, while working at Haywood  
19 Park, falsified or in a repeatedly negligent manner made incorrect entries or failed to make  
20 essential entries on records. The conduct is described in more particularity in paragraph 14  
21 above, inclusive and hereby incorporated by reference.

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25 <sup>1</sup> A Pyxis is a computerized automated medication dispensing machine.

26 <sup>2</sup> In some of the charts, the treating physicians specifically denied having given the orders that were written  
27 for Demerol, and subsequently withdrawn by the Respondent. In other charts it appeared that Respondent failed to  
28 document wastage. For one patient Respondent marked that the patient received a 25 mg Demerol IV and then  
withdrew 50 mg Demerol from the Pyxis without documenting wastage. On another patient, Respondent  
documented that the patient refused an order of Demerol but failed to document wastage.

1 **THIRD CAUSE FOR DISCIPLINE**

2 **(Drug Related Transgressions)**

3 16. Respondent is subject to disciplinary action under section 2761, subdivision (a) of the  
4 Code on the grounds of unprofessional conduct as defined in section 2762, subdivision (e) of the  
5 Code in that Respondent falsified, made grossly incorrect, grossly inconsistent or unintelligible  
6 entries in hospital or patient records. The conduct is described in more particularity in paragraph  
7 14 above, inclusive and hereby incorporated by reference.

8 **FOURTH CAUSE FOR DISCIPLINE**

9 **(Violation of the Nursing Practice Act)**

10 17. Respondent is subject to disciplinary action under section 2761, subdivision (d) of the  
11 Code in that Respondent violated provisions of the Nursing Practice Act. The violations are  
12 described in more particularity in paragraphs 12 through 16 above, inclusive and hereby  
13 incorporated by reference.

14 **PRAYER**

15 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,  
16 and that following the hearing, the Board of Registered Nursing issue a decision:

17 1. Revoking or suspending Registered Nurse License Number 638354, issued to Robert  
18 William Kwasinski, Jr.;

19 2. Ordering Robert William Kwasinski, Jr. to pay the Board of Registered Nursing the  
20 reasonable costs of the investigation and enforcement of this case, pursuant to Business and  
21 Professions Code section 125.3;

22 3. Taking such other and further action as deemed necessary and proper.

23  
24 DATED: April 8, 2013

Louise R. Bailey  
LOUISE R. BAILEY, M.ED., RN  
Executive Officer  
Board of Registered Nursing  
Department of Consumer Affairs  
State of California  
Complainant

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